

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF WATER SERVICE)
CORPORATION OF KENTUCKY FOR) CASE NO. 2010-00476
AN ADJUSTMENT OF RATES)

ORDER

The City of Clinton, Kentucky ("Clinton") has requested intervention in this matter. Finding that Clinton has failed to state sufficient grounds in its request to satisfy the requirements of 807 KAR 5:001, Section 3, we deny the request.

Water Service Corporation of Kentucky. ("Water Service"), a corporation organized under KRS Chapter 271B,¹ owns and operates facilities used in the treatment, distribution, and furnishing of water to approximately 7,376 customers in Bell and Hickman counties, Kentucky.² Approximately 663 of these customers are located in Hickman County, Kentucky.³

Clinton, the county seat of Hickman County, is a city of the fifth class.⁴ It owns wastewater collection and treatment facilities that service incorporated and unincorporated areas of Hickman County. Clinton has contracted with Water Service to operate and manage these facilities and to provide billing and collection services.

¹ See <https://app.sos.ky.gov/ftshow/%28S%28g1u3xkawb1pjugu2dn202dva%29%29/default.aspx?path=ftsearch&id=0534921&ct=09&cs=99999> (last visited July 12, 2011).

² *Annual Report of Water Service Corp. to the Public Service Commission of the Commonwealth of Kentucky for the Calendar Year Ended December 31, 2010* at 5 and 30.

³ Application, Exhibit 4, Schedule D.

⁴ KRS 81.010(5).

Asserting that it has an interest in the proceeding, Clinton has requested leave to intervene in this matter. In support of its request, it identifies two interests in this matter. First, it notes the significance of Water Service to the operation and management of Clinton's wastewater system.⁵ Clinton has had a contractual relationship with Water Service or Water Service's predecessors for the management of Clinton's wastewater operations since 1987. Moreover, Clinton's wastewater rates are based upon water usage.⁶ Water Service serves as the collection and billing agent for Clinton's wastewater operations. Second, it states that a large segment of Clinton's population is on a fixed or limited income and the proposed increase in water service rates and the subsequent increase in wastewater rates would have a devastating effect on this segment.⁷

Water Service opposes the request for intervention. It argues that the only interest in this matter that Clinton has identified in its request relates to Clinton's wastewater rate and the effect of an increase in water service rates on wastewater rates. The rates that Clinton charges for wastewater service, Water Service argues, are within Clinton's exclusive control. Whether these rates are "raised or lowered, too high or subsidized by other local revenues is not a matter for the Commission."⁸ Water

⁵ Request to Intervene (filed Apr. 4, 2011) at ¶ 1 and 2.

⁶ Clinton's City Council has established Clinton's wastewater rates as 133 percent of Water Service's rates for water service.

⁷ Request to Intervene at ¶ 5. In its Request to Intervene, Clinton also states that it serves as a collection point for Water Service.

⁸ Water Service Corporation's Response to Motion to Intervene (filed Apr. 11, 2011) at 2.

Service further notes that the Commission has expressly disclaimed any jurisdiction over Clinton's wastewater rates.⁹

The only person entitled to intervene as a matter of statutory right in this rate-making proceeding is the Attorney General.¹⁰ Intervention by all others is permissive and is within the Commission's discretion.¹¹ In exercising its discretion to determine permissive intervention, the Commission follows 807 KAR 5:001, Section 3(8), which provides:

If the Commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by party is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.¹²

In its request, Clinton has failed to articulate a special interest in this proceeding. We find no special interest based upon Water Service's management of Clinton's wastewater operations. Any change in Water Service's rates will not directly affect those operations. To the extent that Clinton has currently pegged its wastewater rates to Water Service's rates for water service, Clinton has complete discretion to modify or amend its rate structure to disregard any action that we may take regarding Water Service's rates.

⁹ Case No. 2008-00563, *Application of Water Service Corporation of Kentucky for An Adjustment of Rates* (Ky. PSC Nov. 9, 2009) at 29.

¹⁰ KRS 367.150(8)(b).

¹¹ *Inter-County Rural Elec. Cooperative v. Publ. Serv. Comm'n*, 407 S.W.2d 127, 130 (Ky. 1966).

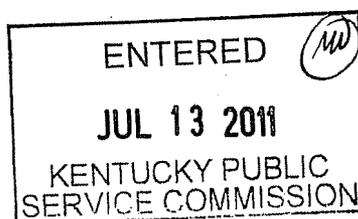
¹² 807 KAR 5:001, Section 3(8)(b).

As to Clinton's assertion of a right to intervene on behalf of its citizens who may be adversely affected by the increase in Water Service's rates, we note that these citizens are consumers, that the AG has been granted full intervention in this matter, and that he has the obligation to appear before the Commission to represent consumers' interests.¹³ Accordingly, we find the interests of these citizens are already adequately represented.¹⁴

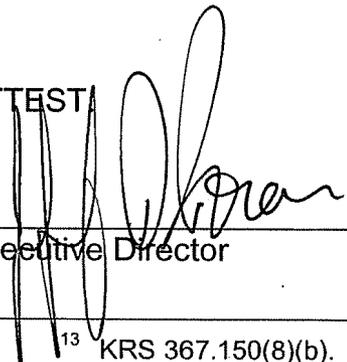
We further find that Clinton has failed to demonstrate that its involvement in the proceeding is likely to present issues and develop facts that will assist us in considering Water Service's application. It has not provided any details regarding its proposed involvement, identified any witnesses that it would call, indicated special knowledge or critical skills that it would bring to this proceeding, or unique issues that it would present.

Based upon the above discussion, the Commission **HEREBY ORDERS** that Clinton's Request to Intervene is denied.

By the Commission



ATTEST



Executive Director

¹³ KRS 367.150(8)(b).

¹⁴ Similarly, Clinton implies in its Request that it has an interest related to the proposed rates' "fiscal impact on county government." Request at 2. As Hickman County Fiscal Court has already been granted leave to intervene in this matter, we find this interest to already be adequately represented.

Honorable John N Hughes
Attorney at Law
124 West Todd Street
Frankfort, KENTUCKY 40601

Sue Ellen Morris
Hickman County Courthouse
110 East Clay Street, Suite D
Clinton, KENTUCKY 42031

Honorable David Edward Spenard
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KENTUCKY 40601-8204